REMARKS

Claims 1-37 and 39-42 are pending and at issue in this application. Claims 1, 20, 24 and 35 are independent. Claim 38 was previously cancelled. Claim 42 is newly added.

Applicants traverse the rejection of claims 1, 4-11, 14-18, 35 and 40 as anticipated by Bradlee et al. Each of claims 1, 4-11, 14-18, 35 and 40 recites a server that receives process control information originated by one of a first or a second processing plant and generates analysis results from the process control information of the first or second processing plant. Generally, the claimed system runs a data processing application that operates on process control information for each plant individually (e.g., the first or second processing plant) and only the analysis results that are based on process control information originated by a particular plant (e.g., the first or second processing plant) is sent to that plant or to a remote user. More particularly, while the claimed server may receive process control information from a first plant and generate analysis results for the first plant or receive process control information from a second plant and generate analysis results for the second plant, the pending claims recite that the analysis result is specific to the plant providing the process control information to the server.

Bradlee et al. teaches that its analysis results are not generated for any particular plant based on the control information of that plant, but rather, generates analysis results as a function of multiple required inputs from multiple different plants to provide a cross-plant calculation that is not specific to any particular plant. In particular, Bradlee et al. discloses a system that collects operating information from a plurality of power plants (paragraph 0021) and information on market conditions for power consumption (e.g., weather, market rates for power, fuel availability, etc.) from a plurality of publicly available external sources such as the Internet (paragraphs 0022 and 0030). The Bradlee et al. system performs a cross-plant analysis (paragraph 0021 and claim 1) that combines all its collected data to produce cross-plant parameters used for recommendations or forecasts for power trading. The recommendations and forecasting can then used to manage energy trading in an exchange regulated by a body called the "ISO." (paragraph 003-005 and 0051). More specifically, Bradlee et al. describes the outputs of its systems to be parameters useful in

determining whether certain energy contracts should be executed, including forward pricing contracts, options, and collars (paragraph 0051). The data produced by the Bradlee et al. system is therefore indicative of a general market demand for and market supply of energy based on a consideration of data from multiple plants. While the output of the Bradlee et al. system requires information from a plurality of plants, the output is not generated based on an input from a particular plant nor is the output specific to any particular plant. Because Bradlee et al. does not disclose generating analysis results for one of a first or second processing plants based on information from the respective processing plant, Bradlee et al. does not anticipate pending claims 1, 4-11, 14-18, 35 and 40.

New claim 42, which depends from claim 1, recites a first processing plant that sends first process control information to a primary server and a second processing plant that sends second process control information to the primary server, where the primary server is adapted to generate a first analysis result from the first process control information and a second analysis result from the second process control information, and send the first and second analysis result back to the first and second plant, respectively, via an open network. While Applicants submit that this feature is recited by claim 1 as previously entered, new claim 42 is added herein to further describe this feature. As discussed above, Bradlee et al. does not disclose or otherwise teach generating analysis results specific to a plant and sending the analysis results back to that particular plant. Thus, new claim 42 is not anticipated by Bradlee et al.

Applicants further traverse the rejection of claim 1, 4-11 and 14-18, as anticipated by Bradlee et al., because each of these pending claims recites a server that sends analysis results to the processing plants providing the process control information. Bradlee et al. does not disclose generating analysis results from process control information received from one of the first or second processing plant and sending the analysis results to the processing plants providing the process control information.

While Bradlee et al. discloses a system for generating analysis results based on information collected from a plurality of plants, Bradlee et al. does not disclose that the analysis results are sent to a processing plant that provided the data for generating the analysis results. Instead, Bradlee et al. discloses a system for calculating cross-plant

parameters based on inputs from a plurality of plants and sending results of its calculations to an entity for making decisions on entering into power contracts. Bradlee et al. describes two entities that are involved in the power contracts, a regional regulatory body, called the ISO, that manages demands for power in a region and an IPP that is an owner of assets that provide the power (paragraphs 0003-0006). The ISO is not a processing plant that provides process control information to the Bradlee system for calculating its cross-plant parameters. In particular, the ISO does not produce or otherwise originate process control information used to generate the analysis results. While the IPP may own one or more plants, Bradlee et al. does not disclose that analysis results are sent back to the one or more plants that actually produce the process control information inputted into the Bradlee et al. system. In fact, Bradlee et al. specifically describes that its output is provided to a user machine 58 that is represented by element 58 in Figure 1 of Bradlee et al. Element 58 is specifically illustrated as a separate and distinct entity from plants 12 and 24 that provide the process control information to the Bradlee system. Because Bradlee et al. does not disclose sending its analysis results back to a plant providing inputs to generate the analysis results, Bradlee et al. does not anticipate pending claims 1, 4-11, and 14-18.

35 U.S.C. § 103

Applicants respectfully traverse the rejection of claims 2, 3, 12, 13, 19, 20-29, 31-34, 37, and 39 as obvious over any combination of Bradlee with Agrusa (U.S. Publication No. 2004/0024891), Keeler et al. (U.S. Patent No. 5,386,373), or Funkhouser (U.S. Patent No. 5,784,570). Each of claims 2, 3, 12, 13, 19, 20-23, 37 and 39 recites generating analysis results from process control information received from one of the first or second processing plant and sending the analysis results to the processing plants providing the process control information. As discussed above, Bradlee et al. does not disclose generating analysis results for one of a first or second processing plants and sending the analysis results to the respective processing plant. Likewise, none of Agrusa, Keeler et al., or Funkhouser discloses or teaches generating analysis results from process control information received from one of the first or second processing plant and sending the analysis results to the processing plant that provides the process control information, nor are any of Agrusa, Keeler et al., or Funkhouser cited for this purpose. Therefore, no combination of the Bradlee et al., Keeler et al., and Funkhouser render claims 2, 3, 12, 13, 19, 20-23, 37, and 39 obvious.

Applicants further traverse the rejection of claims 24-34 as obvious over a combination of Bradlee et al., Agrusa, and Keeler et al. Independent claim 24, from which claims 25-29 and 31-34 depend, recites processing information originated by one of a plurality of processing plants associated with a business entity to generate analysis results using servers of a vendor, and billing each of the business entities of each plant providing the information for processing based on respective data usage, type or processing time. None of Bradlee et al., Agrusa, or Keeler et al. discloses billing a business entity of a process plant that provides information for generating analysis results by a vendor based on data usage, type or processing time.

Neither Agrusa nor Keeler et al. discloses billing business entities as recited by claims 24-34, in any manner, nor are Agrusa or Keeler cited for this purpose. Instead, Bradlee et al. is cited as disclosing this feature. However, Bradlee et al. also fails to disclose billing business entities. In particular, the Office action cites paragraph 0031 of Bradlee et al., which describes a central repository that stores business rules for processing data. The Office action appears to cite the described "business rules" as providing billing functions. The business rules described in Bradlee et al. refer to functions that may be applied to data to produce a result. Nowhere in Bradlee et al. is a business rule described to include a billing function for billing a business entity that provides data for analysis, in any manner.

Moreover, to the extent that the Office believes that a billing or payment function is inherent in the phrase "business rules," Applicants submit that Bradlee et al. describes business rules that are unrelated to billing, and thus, payment or billing is not an inherent feature of a "business rule." See *In re Robertson*, 169 F.3d 743, 745, 49 USPQ2d 1949, 1950-51 (Fed. Cir. 1999); MPEP § 2112(IV) ("To establish inherency, the extrinsic evidence 'must make clear that the missing descriptive matter is necessarily present in the thing described in the reference, and that it would be so recognized by persons of ordinary skill. Inherency, however, may not be established by probabilities or possibilities. The mere fact that a certain thing may result from a given set of circumstances is not sufficient.' "). In particular, some business rules described in Bradlee et al. relate to forecasting power availability and displaying alerts based on the forecast (see paragraphs 0047 and 0054). This functionality is wholly unrelated to billing a customer, much less billing a customer based on data usage, data type or processing time of customer provided data. Furthermore, to establish

a rejection of anticipation based on inherency, the Office must provide a basis for the alleged inherency. *Ex parte Levy*, 17 USPQ2d 1461, 1464; MPEP § 2112(IV) ("In relying upon the theory of inherency, the examiner must provide a basis in fact and/or technical reasoning to reasonably support the determination that the allegedly inherent characteristic necessarily flows from the teachings of the applied prior art."). Accordingly, given that the business rules of Bradlee et al. do not explicitly disclose billing, much less billing based on data usage, data type or processing time, if the office action intends to rely upon common knowledge or to take official notice to rely on upon knowledge generally available to one of ordinary skill in the art that business rules inherently includes the recited billing feature, the Applicants respectfully request production of authority supporting such statements pursuant to MPEP 2144.03.

Because none of Bradlee et al., Agrusa, or Keeler et al. disclose or otherwise teach billing a business entity of a process plant that provides information for generating analysis results by a server based on data usage, type or processing time, no combination of Bradlee et al., Agrusa, and Keeler et al. renders any of claims 24-34 obvious.

CONCLUSION

For the foregoing reasons, Applicants respectfully request reconsideration and withdrawal of the rejections and allowance of claims 1-37 and 39-41. Submitted herewith is a petition for extension of one month time, the corresponding extension of time fee, and a fee for one added dependent claim. While Applicants believe that no other fees are due, the commissioner is hereby authorized to charge any deficiency in the amount enclosed or any additional fees which may be required to Deposit Account No. 13-2855.

If there are matters that can be discussed by telephone to further the prosecution of this application, Applicants respectfully request that the Examiner call its attorney at the number listed below.

In view of the above amendment, applicants believe the pending application is in condition for allowance.

Dated: June 2, 2008

Respectfully submitted,

By: _____

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